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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/994,672

11/28/2001

Peter S. Weissman

8288

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07/27/2006

Peter Weissman  
2912 Upton St., N.W.  
Washington, DC 20008

EXAMINER
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TRAN, NGHI V

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-4, 6-11, 14-18, and 20 are rejected under 35 U.S.C. 101 because of the following reasons:

3. Claim 1 and 14 are directly not limited to "functional descriptive material" because claims 1 and 14 are directly and/or indirectly to a computer program and/or a computer software application. According to "Patent Eligibility Guidelines 35 USC 101", pages 50-51, and according to MPEP 2106 page 2100-2012, a computer program is directed to non-statutory subject matter. For example, the Interim Guidelines recites "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory..." On the other hand, the claims 1 and 14 recite "A computer program having instructions, the computer program comprising: first email...with the first email." and "A computer software application having instructions that when executed by a processor, cause the processor to execute the steps comprising the steps of: processing a primary email...with the processing of the primary email." (emphasis added) are directed to non-statutory subject matter because claims 1 and 14 are just limited to computer program

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and computer application per se, instead being defined as including structurally and functionally interrelated to the medium. Further, claims 1 and 14 lack structurally and functionally to recorded on some computer-readable medium. Therefore, claims 1 and 14 are directed to non-statutory subject matter because they are not directly to "functional descriptive material".

4. Claims 2-4, 6-11, 15-18, and 20 are also rejected under 35 U.S.C. 101 because they are directly on independent claims 1 and 14.

### ***Response to Arguments***

5. Applicant's arguments filed December 30, 2005 have been fully considered but they are not persuasive because of the following: claim 1 and 14 are directly not limited to "functional descriptive material" because claims 1 and 14 are directly and/or indirectly to a computer program and/or a computer software application. According to "Patent Eligibility Guidelines 35 USC 101", pages 50-51, and according to MPEP 2106 page 2100-2012, a computer program is directed to non-statutory subject matter. For example, the Interim Guidelines recites "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory..." On the other hand, the claims 1 and 14 recite "A computer program having instructions, the computer program comprising: first email...with the first email." and "A computer software application having instructions that when executed by a processor, cause the processor to execute the

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steps comprising the steps of: processing a primary email...with the processing of the primary email.” (emphasis added) are directed to non-statutory subject matter because claims 1 and 14 are just limited to computer program and computer application per se, instead being defined as including structurally and functionally interrelated to the medium. Further, claims 1 and 14 lack structurally and functionally to recorded on some computer-readable medium. Therefore, claims 1 and 14 are directed to non-statutory subject matter because they are not directly to “functional descriptive material”.

#### ***Allowable Subject Matter***

6. Claims 12-13 and 19 are allowed.

7. This communication warrants no examiner’s reason for allowance, as applicant’s reply makes evident the reason for allowance, satisfying the record as whole as required by rule 37 CFR 1.104 (e). In this case, the substance of applicant’s remarks filed on September 28, 2005 with respect to the amended claim limitations point out the reason claims are patentable over the prior art of record. Thus, the reason for allowance is in all probability evident from the record and no statement for examiner’s reason for allowance is necessary (see MPEP 13202.14).

#### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Khanh Dinh*  
*Primary Examiner*